

103^D CONGRESS
1ST SESSION

H. R. 2317

To amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance policies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 27, 1993

Mrs. JOHNSON of Connecticut introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

A BILL

To amend the Internal Revenue Code of 1986 with respect to the treatment of long-term care insurance policies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) IN GENERAL.—This Act may be cited as the
5 “Long-Term Care Insurance Incentive Act of 1993”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Section 1. Short title; table of contents.

TITLE I—TAX TREATMENT OF LONG-TERM CARE INSURANCE

Sec. 101. Treatment of long-term care insurance or plans.

- Sec. 102. Exclusion for benefits provided under long-term care insurance; inclusion of employer-provided coverage.
- Sec. 103. Credit for qualified long-term care premiums.
- Sec. 104. Qualified long-term services treated as medical care.
- Sec. 105. Certain exchanges of life insurance contracts for long-term care insurance contracts not taxable.
- Sec. 106. Exclusion from gross income for amounts withdrawn from individual retirement plans or 401(k) plans for long-term care insurance.
- Sec. 107. Tax treatment of accelerated death benefits under life insurance contracts.
- Sec. 108. Tax treatment of companies issuing qualified accelerated death benefit riders.
- Sec. 109. Effective date.

TITLE II—REFUNDABLE TAX CREDIT FOR CERTAIN CUSTODIAL CARE

- Sec. 201. Refundable credit for custodial care of certain dependents in taxpayer's home.

TITLE III—PROTECTION OF ASSETS UNDER MEDICAID THROUGH USE OF QUALIFIED LONG-TERM CARE INSURANCE

- Sec. 301. Protection of assets through use of qualified long-term care insurance.

1 **TITLE I—TAX TREATMENT OF** 2 **LONG-TERM CARE INSURANCE** 3 **SEC. 101. TREATMENT OF LONG-TERM CARE INSURANCE** 4 **OR PLANS.**

5 (a) GENERAL RULE.—Subpart E of part I of sub-
6 chapter L of chapter 1 of the Internal Revenue Code of
7 1986 is amended by inserting after section 818 the follow-
8 ing new section:

9 **“SEC. 818A. TREATMENT OF LONG-TERM CARE INSURANCE** 10 **OR PLANS.**

11 “(a) GENERAL RULE.—For purposes of this part, a
12 long-term care insurance contract shall be treated as an
13 accident or health insurance contract.

14 “(b) LONG-TERM CARE INSURANCE CONTRACT.—

1 “(1) IN GENERAL.—For purposes of this part,
2 the term ‘long-term care insurance contract’ means
3 any insurance contract issued if—

4 “(A) the only insurance protection pro-
5 vided under such contract is coverage of quali-
6 fied long-term care services and benefits inci-
7 dental to such coverage,

8 “(B) the maximum benefit under the pol-
9 icy for expenses incurred for any day does not
10 exceed \$200,

11 “(C) such contract does not cover expenses
12 incurred for services or items to the extent that
13 such expenses are reimbursable under title
14 XVIII of the Social Security Act or would be so
15 reimbursable but for the application of a de-
16 ductible or coinsurance amount,

17 “(D) such contract is guaranteed renew-
18 able,

19 “(E) such contract does not have any cash
20 surrender value, and

21 “(F) all refunds of premiums, and all pol-
22 icyholder dividends or similar amounts, under
23 such contract are to be applied as a reduction
24 in future premiums or to increase future bene-
25 fits.

1 “(2) SPECIAL RULES.—

2 “(A) CONTRACT MAY COVER MEDICARE
3 REIMBURSABLE EXPENSES WHERE MEDICARE
4 IS SECONDARY PAYOR.—Paragraph (1)(C) shall
5 not apply to expenses which are reimbursable
6 under title XVIII of the Social Security Act
7 only as a secondary payor.

8 “(B) REFUNDS OF PREMIUMS.—Para-
9 graph (1)(F) shall not apply to any refund of
10 premiums on surrender or cancellation of the
11 contract.

12 “(c) QUALIFIED LONG-TERM CARE SERVICES.—For
13 purposes of this section—

14 “(1) IN GENERAL.—The term ‘qualified long-
15 term care services’ means necessary diagnostic, pre-
16 ventive, therapeutic, and rehabilitative services, and
17 maintenance or personal care services, which—

18 “(A) are required by a chronically ill indi-
19 vidual in a qualified facility, and

20 “(B) are provided pursuant to a plan of
21 care prescribed by a licensed health care practi-
22 tioner.

23 “(2) CHRONICALLY ILL INDIVIDUAL.—

24 “(A) IN GENERAL.—The term ‘chronically
25 ill individual’ means any individual who has

1 been certified by a licensed health care practi-
2 tioner as—

3 “(i) (I) being unable to perform (with-
4 out substantial assistance from another in-
5 dividual) at least 2 activities of daily living
6 (as defined in subparagraph (B)) for a pe-
7 riod of at least 90 days due to a loss of
8 functional capacity, or

9 “(II) having a level of disability simi-
10 lar (as determined by the Secretary in con-
11 sultation with the Secretary of Health and
12 Human Services) to the level of disability
13 described in subclause (I), or

14 “(ii) having a similar level of disabil-
15 ity due to cognitive impairment.

16 “(B) ACTIVITIES OF DAILY LIVING.—For
17 purposes of subparagraph (A), each of the fol-
18 lowing is an activity of daily living:

19 “(i) MOBILITY.—The process of walk-
20 ing or wheeling on a level surface which
21 may include the use of an assistive device
22 such as a cane, walker, wheelchair, or
23 brace.

1 “(ii) DRESSING.—The overall complex
2 behavior of getting clothes from closets
3 and drawers and then getting dressed.

4 “(iii) TOILETING.—The act of going
5 to the toilet room for bowel and bladder
6 function, transferring on and off the toilet,
7 cleaning after elimination, and arranging
8 clothes or the ability to voluntarily control
9 bowel and bladder function, or in the event
10 of incontinence, the ability to maintain a
11 reasonable level of personal hygiene.

12 “(iv) TRANSFER.—The process of get-
13 ting in and out of bed or in and out of a
14 chair or wheelchair.

15 “(v) EATING.—The process of getting
16 food from a plate or its equivalent into the
17 mouth.

18 “(3) QUALIFIED FACILITY.—The term ‘quali-
19 fied facility’ means—

20 “(A) a nursing, rehabilitative, hospice, or
21 adult day care facility (including a hospital, re-
22 tirement home, nursing home, skilled nursing
23 facility, intermediate care facility, or similar in-
24 stitution)—

1 “(i) which is licensed under State law,
2 or

3 “(ii) which is a certified facility for
4 purposes of title XVIII or XIX of the So-
5 cial Security Act, or

6 “(B) an individual’s home if a licensed
7 health care practitioner certifies that without
8 home care the individual would have to be cared
9 for in a facility described in subparagraph (A).

10 “(4) MAINTENANCE OR PERSONAL CARE SERV-
11 ICES.—The term ‘maintenance or personal care serv-
12 ices’ means any care the primary purpose of which
13 is to provide needed assistance with any of the ac-
14 tivities of daily living described in paragraph (2)(B).

15 “(5) LICENSED HEALTH CARE PRACTI-
16 TIONER.—The term ‘licensed health care practi-
17 tioner’ means any physician (as defined in section
18 1861(r) of the Social Security Act) and any reg-
19 istered professional nurse, licensed social worker, or
20 other individual who meets such requirements as
21 may be prescribed by the Secretary.

22 “(d) CONTINUATION COVERAGE EXCISE TAX NOT
23 TO APPLY.—This section shall not apply in determining
24 whether section 4980B (relating to failure to satisfy con-

1 tinuation coverage requirements of group health plans) ap-
2 plies.

3 “(e) INFLATION ADJUSTMENT OF \$200 BENEFIT
4 LIMIT.—

5 “(1) IN GENERAL.—In the case of a calendar
6 year after 1994, the \$200 amount contained in sub-
7 section (b)(1)(B) shall be increased for such cal-
8 endar year by the medical care cost adjustment for
9 such calendar year. If any increase determined
10 under the preceding sentence is not a multiple of
11 \$10, such increase shall be rounded to the nearest
12 multiple of \$10.

13 “(2) MEDICAL CARE COST ADJUSTMENT.—For
14 purposes of paragraph (1), the medical care cost ad-
15 justment for any calendar year is the percentage (if
16 any) by which—

17 “(A) the medical care component of the
18 Consumer Price Index (as defined in section
19 1(f)(5)) for August of the preceding calendar
20 year, exceeds

21 “(B) such component for August of 1993.”

22 (b) CLERICAL AMENDMENT.—The table of sections
23 for such subpart E is amended by inserting after the item
24 relating to section 818 the following new item:

“Sec. 818A. Treatment of long-term care insurance or plans.”

1 **SEC. 102. EXCLUSION FOR BENEFITS PROVIDED UNDER**
2 **LONG-TERM CARE INSURANCE; INCLUSION**
3 **OF EMPLOYER-PROVIDED COVERAGE.**

4 (a) IN GENERAL.—Subsection (a) of section 104 of
5 the Internal Revenue Code of 1986 (relating to compensa-
6 tion for injuries or sickness) is amended by striking “and”
7 at the end of paragraph (4), by striking the period at the
8 end of paragraph (5) and inserting “, and”, and by insert-
9 ing after paragraph (4) the following new paragraph:

10 “(6) benefits under a long-term care insurance
11 contract (as defined in section 818A(b)).”

12 (b) INCLUSION OF EMPLOYER-PROVIDED COV-
13 ERAGE.—Section 106 of such Code (relating to contribu-
14 tions by employer to accident and health plans) is amend-
15 ed by adding at the end thereof the following sentence:
16 “The preceding sentence shall not apply to any plan pro-
17 viding coverage for long-term care services.”

18 **SEC. 103. CREDIT FOR QUALIFIED LONG-TERM CARE PRE-**
19 **MIUMS.**

20 (a) GENERAL RULE.—Subpart C of part IV of sub-
21 chapter A of chapter 1 of the Internal Revenue Code of
22 1986 (relating to refundable credits) is amended by redes-
23 ignating section 35 as section 36 and by inserting after
24 section 34 the following new section:

1 **“SEC. 35. LONG-TERM CARE INSURANCE CREDIT.**

2 “(a) GENERAL RULE.—In the case of an individual,
3 there shall be allowed as a credit against the tax imposed
4 by this subtitle for the taxable year an amount equal to
5 the applicable percentage of the eligible long-term care
6 premiums paid during such taxable year for such individ-
7 ual or the spouse of such individual.

8 “(b) APPLICABLE PERCENTAGE.—

9 “(1) IN GENERAL.—For purposes of this sec-
10 tion, the term ‘applicable percentage’ means 31 per-
11 cent reduced (but not below zero) by 1 percentage
12 point for each \$1,000 (or fraction thereof) by which
13 the taxpayer’s adjusted gross income for the taxable
14 year exceeds the base amount.

15 “(2) BASE AMOUNT.—For purposes of para-
16 graph (1), the term ‘base amount’ means—

17 “(A) except as otherwise provided in this
18 paragraph, \$25,000,

19 “(B) \$40,000 in the case of joint return,
20 and

21 “(C) zero in the case of a taxpayer who—

22 “(i) is married at the close of the tax-
23 able year (within the meaning of section
24 7703) but does not file a joint return for
25 such taxable year, and

1 “(ii) does not live apart from his or
 2 her spouse at all times during the taxable
 3 year.

4 “(c) ELIGIBLE LONG-TERM CARE PREMIUMS.—

5 “(1) IN GENERAL.—For purposes of this sec-
 6 tion, the term ‘eligible long-term care premiums’
 7 means the amount paid during a taxable year for
 8 any long-term care insurance contract (as defined in
 9 section 818A) covering an individual, to the extent
 10 such amount does not exceed the limitation deter-
 11 mined under the following table:

“In the case of an individual with an attained age before the close of the taxable year of:	The limitation is:
40 or less	\$200
More than 40 but not more than 50	375
More than 50 but not more than 60	750
More than 60 but not more than 70	1,600
More than 70	2,000.

12 “(2) INDEXING.—

13 “(A) IN GENERAL.—In the case of any
 14 taxable year beginning in a calendar year after
 15 1993, each dollar amount contained in para-
 16 graph (1) shall be increased by the medical care
 17 cost adjustment of such amount for such cal-
 18 endar year. If any increase determined under
 19 the preceding sentence is not a multiple of \$10,
 20 such increase shall be rounded to the nearest
 21 multiple of \$10.

1 “(B) MEDICAL CARE COST ADJUST-
 2 MENT.—For purposes of subparagraph (A), the
 3 medical care cost adjustment for any calendar
 4 year is the percentage (if any) by which—

5 “(i) the medical care component of
 6 the Consumer Price Index (as defined in
 7 section 1(f)(5)) for August of the preced-
 8 ing calendar year, exceeds

9 “(ii) such component for August of
 10 1991.

11 “(d) COORDINATION WITH MEDICAL EXPENSE DE-
 12 DUCTION.—Any amount allowed as a credit under this
 13 section shall not be taken into account under section 213.”

14 (b) CLERICAL AMENDMENT.—The table of sections
 15 for subpart C of part IV of subchapter A of chapter 1
 16 of such Code is amended by striking the item relating to
 17 section 35 and inserting the following:

 “Sec. 35. Long-term care insurance credit.
 “Sec. 36. Overpayments of tax.”

18 **SEC. 104. QUALIFIED LONG-TERM SERVICES TREATED AS**
 19 **MEDICAL CARE.**

20 (a) GENERAL RULE.—Paragraph (1) of section
 21 213(d) of the Internal Revenue Code of 1986 (defining
 22 medical care) is amended by striking “or” at the end of
 23 subparagraph (B), by redesignating subparagraph (C) as

1 subparagraph (D), and by inserting after subparagraph
2 (B) the following new subparagraph:

3 “(C) for qualified long-term care services
4 (as defined in section 818A(c)), or”.

5 (b) DEDUCTION FOR LONG-TERM CARE EXPENSES
6 FOR PARENT OR GRANDPARENT.—Section 213 of such
7 Code (relating to deduction for medical expenses) is
8 amended by adding at the end the following new sub-
9 section:

10 “(g) SPECIAL RULE FOR CERTAIN LONG-TERM CARE
11 EXPENSES.—For purposes of subsection (a), the term ‘de-
12 pendent’ shall include any parent or grandparent of the
13 taxpayer for whom the taxpayer has expenses for long-
14 term care services described in section 818A(c), but only
15 to the extent of such expenses.”

16 (c) TECHNICAL AMENDMENTS.—

17 (1) Subparagraph (D) of section 213(d)(1) of
18 such Code (as redesignated by subsection (a)) is
19 amended by striking “subparagraphs (A) and (B)”
20 and inserting “subparagraphs (A), (B), and (C)”.

21 (2) Paragraph (1) of section 213(d) of such
22 Code is amended by adding at the end thereof the
23 following new flush sentence:

24 “In the case of a long-term care insurance contract
25 (as defined in section 818A), only eligible long-term

1 care premiums (as defined in section 35(c)) shall be
2 taken into account under subparagraph (D).”

3 (3) Paragraph (6) of section 213(d) of such
4 Code is amended—

5 (A) by striking “subparagraphs (A) and
6 (B)” and inserting “subparagraphs (A), (B),
7 and (C)”, and

8 (B) by striking “paragraph (1)(C)” in sub-
9 paragraph (A) and inserting “paragraph
10 (1)(D)”.

11 (4) Paragraph (7) of section 213(d) of such
12 Code is amended by striking “subparagraphs (A)
13 and (B)” and inserting “subparagraphs (A), (B),
14 and (C)”.

15 **SEC. 105. CERTAIN EXCHANGES OF LIFE INSURANCE CON-**
16 **TRACTS FOR LONG-TERM CARE INSURANCE**
17 **CONTRACTS NOT TAXABLE.**

18 Subsection (a) of section 1035 of the Internal Reve-
19 nue Code of 1986 (relating to certain exchanges of insur-
20 ance contracts) is amended by striking the period at the
21 end of paragraph (3) and inserting “; or”, and by adding
22 at the end thereof the following new paragraph:

23 “(4) a contract of life insurance or an endow-
24 ment or annuity contract for a long-term care insur-
25 ance contract (as defined in section 818A).”

1 **SEC. 106. EXCLUSION FROM GROSS INCOME FOR AMOUNTS**
2 **WITHDRAWN FROM INDIVIDUAL RETIRE-**
3 **MENT PLANS OR 401(k) PLANS FOR LONG-**
4 **TERM CARE INSURANCE.**

5 (a) IN GENERAL.—Part III of subchapter B of chap-
6 ter 1 of the Internal Revenue Code of 1986 (relating to
7 items specifically excluded from gross income) is amended
8 by redesignating section 137 as section 138 and by insert-
9 ing after section 136 the following new section:

10 **“SEC. 137. DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT**
11 **ACCOUNTS AND SECTION 401(k) PLANS FOR**
12 **LONG-TERM CARE INSURANCE.**

13 “(a) GENERAL RULE.—The amount includible in the
14 gross income of an individual for the taxable year by rea-
15 son of qualified distributions during such taxable year
16 shall not exceed the excess of—

17 “(1) the amount which would (but for this sec-
18 tion) be so includible by reason of such distributions,
19 over

20 “(2) the aggregate premiums paid by such indi-
21 vidual during such taxable year for any long-term
22 care insurance contract (as defined in section 818A)
23 for the benefit of such individual or the spouse of
24 such individual.

25 “(b) QUALIFIED DISTRIBUTION.—For purposes of
26 this section, the term ‘qualified distribution’ means any

1 distribution to an individual from an individual retirement
2 account or a section 401(k) plan if such individual has
3 attained age 59½ on or before the date of the distribution
4 (and, in the case of a distribution used to pay premiums
5 for the benefit of the spouse of such individual, such
6 spouse has attained age 59½ on or before the date of the
7 distribution).

8 “(c) DEFINITIONS.—For purposes of this section—

9 “(1) INDIVIDUAL RETIREMENT ACCOUNT.—The
10 term ‘individual retirement account’ has the mean-
11 ing given such term by section 408(a).

12 “(2) SECTION 401(k) PLAN.—The term ‘section
13 401(k) plan’ means any employer plan which meets
14 the requirements of section 401(a) and which in-
15 cludes a qualified cash or deferred arrangement (as
16 defined in section 401(k)).

17 “(d) SPECIAL RULES FOR SECTION 401(k) PLANS.—

18 “(1) WITHDRAWALS CANNOT EXCEED ELEC-
19 TIVE CONTRIBUTIONS UNDER QUALIFIED CASH OR
20 DEFERRED ARRANGEMENT.—This section shall not
21 apply to any distribution from a section 401(k) plan
22 to the extent the aggregate amount of such distribu-
23 tions for the use described in subsection (a) exceeds
24 the aggregate employer contributions made pursuant
25 to the employee’s election under section 401(k)(2).

1 “(2) WITHDRAWALS NOT TO CAUSE DISQUALI-
 2 FICATION.—A plan shall not be treated as failing to
 3 satisfy the requirements of section 401, and an ar-
 4 rangement shall not be treated as failing to be a
 5 qualified cash or deferred arrangement (as defined
 6 in section 401(k)(2)), merely because under the plan
 7 or arrangement distributions are permitted which
 8 are excludable from gross income by reason of this
 9 section.”

10 (b) CONFORMING AMENDMENTS.—

11 (1) Section 401(k) of such Code is amended by
 12 adding at the end the following new paragraph:

13 “(11) CROSS REFERENCE.—

**“For provision permitting tax-free withdrawals
 for payment of long-term care premiums, see section
 137.”**

14 (2) Section 408(d) of such Code is amended by
 15 adding at the end the following new paragraph:

16 “(8) CROSS REFERENCE.—

**“For provision permitting tax-free withdrawals
 from individual retirement accounts for payment of
 long-term care premiums, see section 137.”**

17 (3) The table of sections for such part III is
 18 amended by striking the last item and inserting the
 19 following new items:

 “Sec. 137. Distributions from individual retirement accounts and
 section 401(k) plans for long-term care insurance.
 “Sec. 138. Cross references to other Acts.”

1 **SEC. 107. TAX TREATMENT OF ACCELERATED DEATH BENE-**
2 **FITS UNDER LIFE INSURANCE CONTRACTS.**

3 Section 101 of the Internal Revenue Code of 1986
4 (relating to certain death benefits) is amended by adding
5 at the end thereof the following new subsection:

6 “(g) TREATMENT OF CERTAIN ACCELERATED
7 DEATH BENEFITS.—

8 “(1) IN GENERAL.—For purposes of this sec-
9 tion, any amount paid or advanced to an individual
10 under a life insurance contract on the life of an in-
11 sured—

12 “(A) who is a terminally ill individual, or

13 “(B) who is a chronically ill individual (as
14 defined in section 818A(c)(2)) who is confined
15 to a qualified facility (as defined in section
16 818A(c)(3)(A)),

17 shall be treated as an amount paid by reason of the
18 death of such insured.

19 “(2) TERMINALLY ILL INDIVIDUAL.—For pur-
20 poses of this subsection, the term ‘terminally ill indi-
21 vidual’ means an individual who has been certified
22 by a physician as having an illness or physical condi-
23 tion which can reasonably be expected to result in
24 death in 12 months or less.

1 “(3) PHYSICIAN.—For purposes of this sub-
2 section, the term ‘physician’ has the meaning given
3 to such term by section 213(d)(4).”

4 **SEC. 108. TAX TREATMENT OF COMPANIES ISSUING QUALI-**
5 **FIED ACCELERATED DEATH BENEFIT RID-**
6 **ERS.**

7 (a) QUALIFIED ACCELERATED DEATH BENEFIT RID-
8 ERS TREATED AS LIFE INSURANCE.—Section 818 of the
9 Internal Revenue Code of 1986 (relating to other defini-
10 tions and special rules) is amended by adding at the end
11 thereof the following new subsection:

12 “(g) QUALIFIED ACCELERATED DEATH BENEFIT
13 RIDERS TREATED AS LIFE INSURANCE.—For purposes of
14 this part—

15 “(1) IN GENERAL.—Any reference to a life in-
16 surance contract shall be treated as including a ref-
17 erence to a qualified accelerated death benefit rider
18 on such contract.

19 “(2) QUALIFIED ACCELERATED DEATH BENE-
20 FIT RIDERS.—For purposes of this subsection, the
21 term ‘qualified accelerated death benefit rider’
22 means any rider or addendum on, or other provision
23 of a life insurance contract which provides for pay-
24 ments to an individual on the life of an insured upon
25 such insured—

1 “(A) becoming a terminally ill individual
2 (as defined in section 101(g)(2)), or

3 “(B) becoming a chronically ill individual
4 (as defined in section 818A(c)(2)) who is con-
5 fined to a qualified facility (as defined in sec-
6 tion 818A(c)(3)(A)).”

7 (b) DEFINITIONS OF LIFE INSURANCE AND MODI-
8 FIED ENDOWMENT CONTRACTS.—

9 (1) RIDER TREATED AS QUALIFIED ADDI-
10 TIONAL BENEFIT.—Paragraph (5)(A) of section
11 7702(f) of such Code is amended by striking “or”
12 at the end of clause (iv), by redesignating clause (v)
13 as clause (vi), and by inserting after clause (iv) the
14 following new clause:

15 “(v) any qualified accelerated death
16 benefit rider (as defined in section
17 818(g)(2)) or any long-term care insurance
18 contract rider which reduces the death
19 benefit, or”.

20 (2) TRANSITIONAL RULE.—For purposes of ap-
21 plying section 7702 or 7702A of the Internal Reve-
22 nue Code of 1986 to any contract (or determining
23 whether either such section applies to such con-
24 tract), the issuance of a rider or addendum on, or
25 other provision of, a life insurance contract permit-

1 ting the acceleration of death benefits (as described
 2 in section 101(g) of such Code) or payments for
 3 qualified long-term care services (as defined in sec-
 4 tion 818A of such Code) shall not be treated as a
 5 modification or material change of such contract.

6 **SEC. 109. EFFECTIVE DATE.**

7 The amendments made by this title shall apply to tax-
 8 able years beginning after December 31, 1993.

9 **TITLE II—REFUNDABLE TAX**
 10 **CREDIT FOR CERTAIN CUSTO-**
 11 **DIAL CARE**

12 **SEC. 201. REFUNDABLE CREDIT FOR CUSTODIAL CARE OF**
 13 **CERTAIN DEPENDENTS IN TAXPAYER’S**
 14 **HOME.**

15 (a) IN GENERAL.—Subpart C of part IV of sub-
 16 chapter A of chapter 1 of the Internal Revenue Code of
 17 1986 (relating to refundable credits), as amended by sec-
 18 tion 103 of this Act, is amended by redesignating section
 19 36 as section 37 and by inserting after section 35 the fol-
 20 lowing new section:

21 **“SEC. 36. CREDIT FOR TAXPAYERS WITH CERTAIN PERSONS**
 22 **REQUIRING CUSTODIAL CARE IN THEIR**
 23 **HOUSEHOLDS.**

24 “(a) ALLOWANCE OF CREDIT.—In the case of an in-
 25 dividual who maintains a household which includes as a

1 member one or more qualified persons, there shall be al-
2 lowed as a credit against the tax imposed by this chapter
3 for the taxable year an amount equal to \$2,000 for each
4 such person.

5 “(b) QUALIFIED PERSON DEFINED.—For purposes
6 of this section, the term ‘qualified person’ means any indi-
7 vidual—

8 “(1) who is a dependent (as defined in section
9 152) or spouse of the taxpayer,

10 “(2) who is a chronically ill individual (within
11 the meaning of section 818A(c)(2)), and

12 “(3) who has as his principal place of abode for
13 more than half of the taxable year the home of the
14 taxpayer.

15 “(c) SPECIAL RULES.—For purposes of this sec-
16 tion—

17 “(1) MAINTAINING A HOUSEHOLD.—An individ-
18 ual shall be treated as maintaining a household for
19 any period if over half the cost of maintaining the
20 household for such period is furnished by such indi-
21 vidual (or, if such individual is married during such
22 period, by such individual and his spouse).

23 “(2) MARRIED COUPLES MUST FILE JOINT RE-
24 TURN.—If the taxpayer is married at the close of
25 the taxable year, the credit under subsection (a)

1 shall be allowed only if the taxpayer and his spouse
2 file a joint return for the taxable year.

3 “(3) MARITAL STATUS.—An individual legally
4 separated from his spouse under a decree of divorce
5 or separate maintenance shall not be considered as
6 married.

7 “(4) CERTAIN MARRIED INDIVIDUALS LIVING
8 APART.—If—

9 “(A) an individual who is married and who
10 files a separate return—

11 “(i) maintains a household which in-
12 cludes as a member one or more qualified
13 persons, and

14 “(ii) furnishes over half of the cost of
15 maintaining such household during such
16 taxable year, and

17 “(B) during the last 6 months of such tax-
18 able year such individual’s spouse is not a mem-
19 ber of such household,

20 such individual shall not be considered as married.

21 “(d) REGULATIONS.—The Secretary shall prescribe
22 such regulations as may be necessary to carry out the pur-
23 poses of this section.”

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for subpart C of part IV of subchapter A of chapter 1

1 of such Code is amended by striking the item relating to
 2 section 36 and inserting the following:

“Sec. 36. Credit for taxpayers with certain persons requiring cus-
 todial care in their households.

“Sec. 37. Overpayments of tax.”

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to taxable years beginning after
 5 December 31, 1993.

6 **TITLE III—PROTECTION OF AS-**
 7 **SETS UNDER MEDICAID**
 8 **THROUGH USE OF QUALIFIED**
 9 **LONG-TERM CARE INSUR-**
 10 **ANCE**

11 **SEC. 301. PROTECTION OF ASSETS THROUGH USE OF**
 12 **QUALIFIED LONG-TERM CARE INSURANCE.**

13 (a) IN GENERAL.—Title XIX of the Social Security
 14 Act is amended by adding at the end the following new
 15 section:

16 “SPECIAL RULES FOR ASSET DISREGARD IN THE CASE OF
 17 QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS

18 “SEC. 1931. (a) IN GENERAL.—Each State plan
 19 under this title, as a condition for the receipt of payment
 20 under section 1903(a) with respect to long-term care serv-
 21 ices (as defined in subsection (c)(1)), shall provide that
 22 in determining the eligibility of an individual for medical
 23 assistance under the plan with respect to such services
 24 there shall be disregarded some or all of the individual’s

1 assets which are attributable (as determined under sub-
2 section (c)(2)) to coverage under a qualified long-term
3 care insurance contract (as defined in subsection (b)).

4 “(b) QUALIFIED LONG-TERM CARE INSURANCE
5 CONTRACT DEFINED.—In this section, the term ‘qualified
6 long-term care insurance contract’ means, with respect to
7 a State, a long-term care insurance contract (as defined
8 in section 818A(b) of the Internal Revenue Code of 1986)
9 which—

10 “(1) provides such protection against the costs
11 of receiving long-term care services as the State may
12 require by law;

13 “(2) provides that benefits under the contract
14 shall be paid without regard to eligibility for medical
15 assistance under this title; and

16 “(3) meets such other requirements (such as re-
17 quirements relating to premiums, disclosure, mini-
18 mum benefits, rights of conversion, and standards
19 for claims processing) as the State may determine to
20 be appropriate.

21 “(c) OTHER DEFINITIONS.—In this section:

22 “(1) LONG-TERM CARE SERVICES.—The term
23 ‘long-term care services’ means nursing facility serv-
24 ices, home health care services, and home and com-
25 munity-based services, and includes such other simi-

1 lar items and services described in section 1905(a)
2 as a State may specify.

3 “(2) **ATTRIBUTION RULES.**—An individual’s as-
4 sets are considered to be ‘attributable’ to a qualified
5 long-term care insurance contract to the extent spec-
6 ified under the State plan. Such a plan shall provide
7 for at least one of the following:

8 “(A) All assets are considered attributable
9 if the insurance contract provides coverage for
10 at least a specified period of coverage (of not
11 less than 3 years and of not more than 6 years)
12 for long-term care services.

13 “(B) An amount of assets, up to the dollar
14 limitation on benefits for long-term care serv-
15 ices under the contract, is considered attrib-
16 utable to the contract.”.

17 (b) **CONFORMING AMENDMENT.**—Section
18 1902(a)(17)(A) of such Act (42 U.S.C. 1396a(a)(17)(A))
19 is amended by inserting “and section 1931” after “objec-
20 tives of this title”.

21 (c) **EFFECTIVE DATE.**—

22 (1) **IN GENERAL.**—The amendments made by
23 this section shall apply (except as provided under
24 paragraph (2)) to payments to States under title
25 XIX of the Social Security Act for calendar quarters

1 beginning on or after one year after the date of the
2 enactment of this Act, without regard to whether
3 regulations to implement such amendment are pro-
4 mulgated by such date.

5 (2) DELAY PERMITTED IF STATE LEGISLATION
6 REQUIRED.—In the case of a State plan for medical
7 assistance under title XIX of the Social Security Act
8 which the Secretary of Health and Human Services
9 determines requires State legislation (other than leg-
10 islation authorizing or appropriating funds) in order
11 for the plan to meet the additional requirements im-
12 posed by the amendments made by this section, the
13 State plan shall not be regarded as failing to comply
14 with the requirements of such title solely on the
15 basis of its failure to meet these additional require-
16 ments before the first day of the first calendar quar-
17 ter beginning after the close of the first regular ses-
18 sion of the State legislature that begins after the
19 date of the enactment of this Act. For purposes of
20 the previous sentence, in the case of a State that has
21 a 2-year legislative session, each year of such session
22 shall be deemed to be a separate regular session of
23 the State legislature.

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